

For more information on using mediation to resolve a split estate conflict, contact:

Lucy Hansen Pauley  
Wyoming Agriculture & Natural Resource  
Mediation Program  
2219 Carey Avenue  
Cheyenne, WY 82002-0100

(307) 777-8788 or 1-888-996-9278  
email: [lpau@state.wy.us](mailto:lpau@state.wy.us)

# Mediation:

## A Tool for Resolving Split Estate Conflicts



### **AMERICANS WITH DISABILITIES ACT**

TO OBTAIN THIS PUBLICATION IN AN ALTERNATIVE FORMAT, CONTACT THE  
WYOMING DEPARTMENT OF AGRICULTURE AT (307) 777-8788.

In 2005, the Wyoming Legislature authorized mediation and other conflict resolution processes as a way to resolve split estate conflicts. W.S. 30-5-402(f) gives oil and gas developers and landowners the opportunity to request mediation after good-faith negotiations have taken place and no agreement has been reached. While most parties work together to develop a surface use agreement that meets their needs, from time to time, the two sides will find themselves at an impasse and communication will cease. If these situations, mediation and other types of alternative dispute resolution are options to consider in helping to resolve the conflict.

Mediation is a voluntary and confidential process where a trained neutral person, the mediator, sits down with the parties and helps them develop an agreement. A mediator does not act like a judge, deciding who is right or wrong. Instead, the mediator helps the parties to talk about the situation and develop a mutually satisfactory solution. By making sure that the negotiation environment is fair and helping the parties look for win-win options, the mediator can assist both sides in overcoming the factors that have previously prevented them from coming to agreement.

The mediation process itself is simple. The parties sit down at a table with the mediator and talk about the conflict. The mediator asks each side a series of questions that will help bring the issues out into the open. The mediator will then help the parties to look at possible solutions to their conflict and find an agreement that they can both live with. Mediation is completely voluntary, so if at any time one or both parties are uncomfortable with the process, they can walk away and pursue the other options that are available to them.

There are several reasons to use mediation. First, the process can be timesaving. While a lawsuit may take months and even years, mediation sessions can be started and completed within

a matter of weeks. The process is also cost-saving as mediator fees range from between \$25 to \$100 per hour. Depending on the complexity of the issue, the average mediation session lasts no more than four hours.

Mediation also allows for the use of expert third parties. If a question of science is at the core of the split estate conflict, the parties can agree to bring in a team of neutral experts to look at the situation and make recommendations. For example, if the parties are stuck on where to place a pond or reservoir, they can bring in a technical review team to come out to the property and review the situation and make recommendations.

Finally, the mediation process is confidential. The parties can decide beforehand which information they will make public, if any. While mediation encourages the parties to work out the conflict without going to court, it is important to remember that surface use agreements are legal documents. Before signing any final document, the agreement should be reviewed by each party's attorney.

Ideally, the mediation process will enable the parties to resolve the conflict. In cases where this does not happen, mediation can still have a benefit. Sometimes, the process might help the parties to improve communication or repair their relationship. Mediation can allow both parties the chance to move forward or give them time to make a decision. If both parties attempt the process in good-faith, mediation can simply be another tool to help agricultural producers and oil and gas developers make wise natural resource decisions.

*Interested in using mediation for a split estate conflict? Contact Lucy Hansen Pauley at the Wyoming Agriculture and Natural Resource Mediation Program at (307) 777-8788 or [lpau@state.wy.us](mailto:lpau@state.wy.us).*